

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Environmental Recovery Services
15902 South Main Street
Gardena, California 90247
CAR000188201

Respondent.

Docket HWCA 2011-3829

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Environmental Recovery Services (Respondent), a California corporation enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, and stores hazardous waste at the following location: 15902 South Main Street, Gardena, California 90247 (Site).

1.3. Inspection. The Department inspected the Site on July 20, 2011.

1.4. Authorization Status. Respondent is a registered hazardous waste transporter.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violation

alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violation as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violation:

2.1.1. Respondent violated Health and Safety Code 25201(a) in that on or about July 20, 2011, Respondent did not comply with the terms and conditions set forth in Health and Safety Code section 25123.3(b)(3)(A)(ii), when Respondent operated a storage facility which commenced operations on or after January 1, 2005, storing offsite generated hazardous waste within 500 feet of a residence without a permit or grant of authorization from the Department. To wit: Respondent commenced hazardous waste transfer facility operations at the Site on or about November 15, 2007, immediately adjacent to residential properties. Respondent contends that it commenced its hazardous waste transfer facility operations at the Site due to its reliance on DTSC and CUPA inspections of the Site between 2007 and 2011 that failed to indicate that any permit or grant of authorization from the Department was required until a DTSC inspection in July of 2011 revealed that a portion of the Site was within 500 feet of residences.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Effective immediately Respondent shall comply with all current federal and California law regarding the management of hazardous waste at the Site.

3.1.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.8. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$6,000, of which \$ 3,900 is a penalty and \$ 2,100 as reimbursement of the Department's costs incurred in this matter.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Carmelita E. Lampino, Branch Chief
Enforcement and Emergency Response Division Cypress
Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code,

section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

October 24, 2013
Dated: _____,

Original signed by Robert Scott

Robert Scott, President
Environmental Recovery Services

October 25, 2013
Dated: J I

Original signed by Carmelita E. Lampino

Carmelita E. Lampino, Branch Chief
Enforcement & Emergency Response Division
Department of Toxic Substances Control